

REMARKS

The examiner is respectfully requested to reconsider his final rejection for the reasons already set forth in light of the following comments.

The claims now extant are 25 to 29. The apparatus claims have been canceled and the method claims 25 to 29 have been amended accordingly. Under the present circumstances it is appropriate to use apparatus limitations in a method claim. See *Ex parte Pfeiffer*, 135 USPQ 31, 33 (Bd.App. 1961)

The claims, were finally rejected as follows:

- 1) Claims 22, 23 and 25 over Kongshaug et al. (US 4,973,457) (Kongshaug).
- 2) Claims 26, 27 and 29 over Kongshaug in view of Fetzer et al (US 5,587,135) (Fetzer).
- 3) Claim 24 over Kongshaug in view of Fetzer.
- 4) Claim 28 over Kongshaug in view of Fetzer.

Rejections 1) and 3) are clearly no longer applicable, the apparatus claims having been canceled.

As has already be discussed, and incorporated here by reference, applicants invention involves more than just a "mere" adjustment of Kongshaug's parameters. The references do not make out the necessary prima facie case for obviousness. The examiner presents, in essence, an "obvious to experiment" (or "obvious to try") standard which is not a standard for obviousness.

Lacking from the cited prior art is the necessary teaching or suggestion or motivation to combine the references in such a way as to come up with applicants' invention. Moreover there is no suggestion in the Kongshaug, alone, or considered

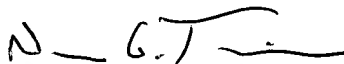
together with Fetzer¹ to modify Kongshaug's parameters to the extent necessary to obtain the following advantages of applicants' invention (as noted in the specification):

- " ...N₂O content of the waste gasses can be reduced effectively and at low cost." (paragraph bridging pages 2 and 3)
- "...installation in existing reactors without great rebuilding..." (page. 3, lines 33 to 37)
- very low pressure drop (page 4, lines 3-6)
- suppression of secondary reactions (*ibid*)

Accordingly, allowance is respectfully solicited. However, should the examiner not agree, it is respectfully requested that the amendment be entered to simplify the issues on appeal. No new search would appear to be required as a result the present amendments, the examiner having already searched both the method and the apparatus claims.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees to Deposit Account No. 11-0345. Please credit any excess fees to such deposit account.

Respectfully submitted,
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¹ It is interesting to note that Fetzer has overlapping inventorship (Fetzer and Buerger) and the same assignee as the present application.

COMPLETE LISTING OF ALL CLAIMS IN THE APPLICATION

1-25 (canceled).

Claim 26, last line, after "0.05 s." insert --

26. (currently amended) A process for the catalytic decomposition of N_2O in a gas mixture obtained in the preparation of nitric acid by catalytic oxidation of ammonia, where the N_2O is decomposed catalytically over a catalyst for the decomposition of N_2O , wherein the hot gas mixture obtained from the catalytic oxidation of ammonia is brought into contact with the catalyst for the decomposition of N_2O prior to subsequent cooling, wherein the residence time over the catalyst for the decomposition of N_2O is less than 0.05 s wherein the process is carried out in a reactor which contains a noble metal gauze catalyst and a heat exchanger in that order in the direction of flow and the catalyst for the decomposition of N_2O is located between the noble metal gauze catalyst and the heat exchanger, wherein the catalyst for the decomposition of N_2O is installed as a fixed bed having a height of from 5 -10 cm.
27. (previously added) A process as claimed in claim 26, wherein the decomposition of N_2O is carried out at from 600 to 950°C and/or at a pressure in the range from 1 to 15 bar.
28. (previously added) A process as claimed in claim 26, wherein the catalyst for the decomposition of N_2O is prepared by combining $CuAl_2O_4$ with tin, lead and/or an element of main group II or transition group II of the Periodic Table of the

Elements as oxide or salt or in elemental form and subsequently calcining the mixture at from 300 to 1300°C and a pressure in the range from 0.1 to 200 bar.

29. (currently amended) The process of claim 26, wherein the residence time over the catalyst for the ~~decomposition~~ decomposition of N₂O is 0.03 s.